

Legislative Audit Division

State of Montana



Report to the Legislature

December 2005

Performance Audit

Use of Special Education Funds

Office of Public Instruction (OPI)

This report provides findings and recommendations regarding use of Montana's special education funds. Areas for improvement include:

- ▶ More active reporting and analysis of special education funds.
- ▶ Additional legislative direction needed on use of funds for reserves and type of funds spent.

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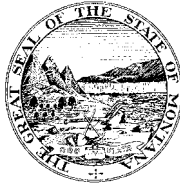
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December 2005

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit of the Office of Public Instruction (OPI) oversight of special education funds. This audit was requested by the Legislative Audit Committee.

This report provides information to the Legislature on the types and amounts of special education funds, and the use of these funds. Findings and recommendations address strengthening OPI controls and legislative guidance for this program. A written response from OPI is included at the end of the report.

We wish to express our gratitude to the staff of OPI and the school districts for their cooperation and assistance during this audit.

Respectfully submitted,

/s/ Scott A. Seacat

Scott A. Seacat
Legislative Auditor

Legislative Audit Division

Performance Audit

Use of Special Education Funds

Members of the audit staff involved in this audit were Lisa Blanford, Angie Grove, Kent Rice, and Misty Wallace.

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Elected and Administrative Officials

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Introduction

The Office of Public Instruction (OPI) distributes special education funding and support services to over 400 public school districts. The Legislative Audit Committee requested a performance audit of OPI's oversight of special education program funds. Our audit objectives focused on identifying OPI controls for overseeing special education funds and then examining the need for any additional legislative directive on the use of those funds. Audit testing focused on state, local, and federal funding of public school district special education budgets and related OPI oversight responsibilities. OPI is a "pass-through entity" that distributes funds to local school districts to carry out the various statutory mandates for special education programs. Section 20-3-106, MCA, assigns general duties for school district budgeting procedures to OPI. Our audit examined how OPI controls address these responsibilities. Audit testing examined program activities for fiscal year 2003-2004. Audit findings relate to:

- ▶ Improvements in OPI oversight of special education funds.
- ▶ Need for additional legislative direction on use of funds.

Special Education in Montana

Montana law defines "special education" as specially designed instruction, given at no cost to the parents or guardians, to meet the unique needs of a child with a disability. Special education instruction and related services are administered by public school districts, private schools, special education cooperatives, state operated facilities, residential treatment facilities, and correctional facilities. Currently, special education programs in Montana serve over 19,500 children between the ages of 3-21.

Montana special education program funds are comprised of state, local, and federal funds. In the past 15 years, special education expenditures have doubled with local and federal funds increasing to cover the costs and state funds remaining relatively flat.

General Financial Oversight Controls Are In Place But Could Be Expanded

Audit testing was conducted at OPI and at school districts. Based on this testing, we found a system of controls in place to ensure school district compliance with financial requirements. However, current

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controls focus on compliance rather than funding oversight and exclude key program information in reports to the legislature. Overall, we found OPI needs to improve analysis and reporting of funding information from data currently collected.

OPI Should Strengthen Training on Budget Practices to Key Personnel

OPI provides training and technical assistance on school finances and budgeting practices. Survey results, data analysis, and school district personnel interviews indicated a need for improved training in the financial administration and management of special education funds. We found the current lack of training has resulted in districts using local funds for special education services, while federal funds were held in reserve. In addition, district personnel responsible for budget and expenditure oversight vary per district and OPI training is not always directed at all individuals involved. We recommend OPI develop more specific special education budgeting training and provide that training to the appropriate school district personnel.

Federal Funds are Used as Program Funding Reserves

During our audit testing, we found school districts and special education cooperatives do not annually spend all federal special education funding available, while using other educational program money for special education expenditures. Five fiscal years of data show at least \$5 million or more of federal special education grants are reserved each fiscal year as carryover funds. In addition, Medicaid reimbursements for special education expenditures are also being reserved. Reserving federal dollars has no negative budgetary impacts to a school district, while not spending state and local dollars can reduce future budgets. Federal statutes allow carryover of funds while state statutes do not. Although the majority of federal grant carryover funds are spent by districts within the timeframe allowed by federal law, these budgeting practices have created impacts to both local and state funds.

Impacts to Local and State Funds

Per OPI reports, the greatest share of increased funding for special education is from local funds. In fiscal year 2004, school districts were required to match state special education funds received with \$8.1 million in local funds. However, actual local funds expended in that year were \$32.7 million, while \$10.2 million in reserved federal special education grant funds were not used. Generally, not

spending federal dollars available for special education results in local funding for special education being maintained at a higher level. We also found 67 percent (293/438) of school districts are receiving the state reimbursement payment based on local fund expenditures each year. We found the districts receiving the largest state reimbursement payments also had the most reserved federal grant dollars for special education in those years. Based on this information, it appears changing budget practices to focus on the use of federal funds are needed. Overall, a portion of the reserved \$10.2 million of federal special education grant funds and the additional reserve of Medicaid reimbursement funds could have been used to reduce the \$32.6 million in local dollar contributions and to allow for more equitable distribution of state funds.

Additional Legislative Direction Needed On Use of Special Education Funds

There are no state statutory incentives which address the use of federal special education funds for reserves or for using these funds prior to state and local funds. Current Montana school finance law does establish the need for other types of fund reserves and limitations for those reserves. We also found other state statutes address the use of federal funds. Other state agencies/programs have clear legislative guidance on their budget flexibility and priorities for using various fund sources. Section 17-2-108, MCA establishes legislative directives on the prioritization of expenditure of available funds. Although this law does not include school districts, the same concept could be applied to special education funding allocations to address the local funding impacts of reserved federal funds. Without specific legislative guidance for use of federal special education funds and budget practices, OPI cannot address the current use of funding sources.

According to school district and OPI personnel, federal funds are reserved for contingency purposes. Special education laws mandate districts provide services to eligible children whether or not funds are available. Depending on a student's disability needs, district costs can range considerably. Unexpected special education expenses are a common experience. The funding statutes for special education also do not address the need for or purpose of reserves for this program. The legislature has established reserves for other fund

Report Summary

types. Similar steps could be taken for reserves of special education funds. We believe the legislature should specifically clarify the use and need for these reserves for special education funds.

Without legislative direction on the use of federal funds, special education budget practices have utilized other methods to develop and maintain reserve funds. If legislative criteria were available, special education costs could be applied to designated federal funds before local and state dollars are used whenever possible. This practice should impact the level of local and state funds available for general education and, in turn, reduce or more equitably distribute the amount of state reimbursement payments made in the next funding cycle. We believe the legislature should establish criteria for applying special education expenditures against federal funds whenever possible.

Chapter I - Introduction and Background

Introduction

The Office of Public Instruction (OPI) distributes special education funding and support services to over 400 public school districts. The Legislative Audit Committee requested a performance audit of OPI's oversight of special education program funds. In this report, we present information regarding existing OPI oversight. Audit findings relate to:

- ▶ Improvements in OPI oversight of special education funds.
- ▶ Need for additional legislative direction on use of funds.

Audit Objectives and Scope

Our audit objectives focused on identifying OPI controls for overseeing special education funds and then examining the need for any additional legislative directive on the use of those funds. Audit testing focused on state, local, and federal funding of public school district special education budgets and related OPI oversight responsibilities. Audit testing examined program activities for fiscal year 2003-2004.

What is Special Education?

The federal Individuals with Disabilities Education Act (IDEA) (Title 20, Chapter 33, U.S. Code) was designed to:

- ▶ Ensure all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living.
- ▶ Ensure the rights of children with disabilities and their parents are protected.
- ▶ Assist states, localities, educational service agencies, and federal agencies in providing education of all children with disabilities.
- ▶ Assess and ensure the effectiveness of efforts to educate children with disabilities.

Special Education Programs in Montana

Montana law defines "special education" as specially designed instruction, given at no cost to the parents or guardians, to meet the unique needs of a child with a disability, including but not limited to instruction conducted in a classroom, home, hospital, institution, or

Chapter I - Introduction and Background

other setting. The law defines a "child with a disability" as a child evaluated in accordance with the regulations of IDEA as having:

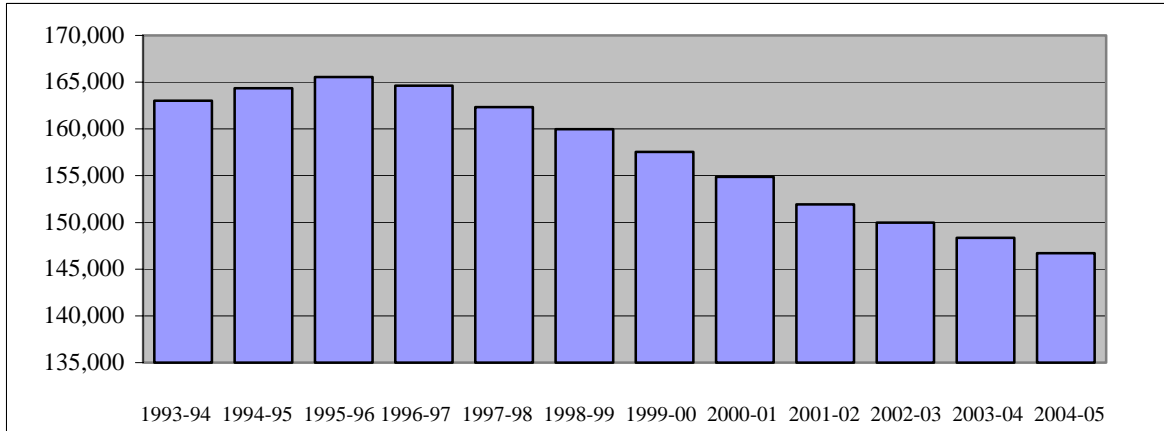
- ▶ cognitive delay;
- ▶ hearing impairment, including deafness;
- ▶ speech or language impairment;
- ▶ visual impairment, including blindness;
- ▶ emotional disturbance;
- ▶ orthopedic impairment;
- ▶ autism;
- ▶ traumatic brain injury;
- ▶ other health impairments;
- ▶ multiple disabilities; or
- ▶ specific learning disabilities.

Montana's Special Education Population

Currently, special education programs in Montana serve over 19,500 children between the ages of 3-21 with disabilities including children in residential treatment facilities. This is 13 percent of the total student enrollment. The following charts depict the total enrollment in Montana and the number of children identified as special education eligible for the past twelve school years.

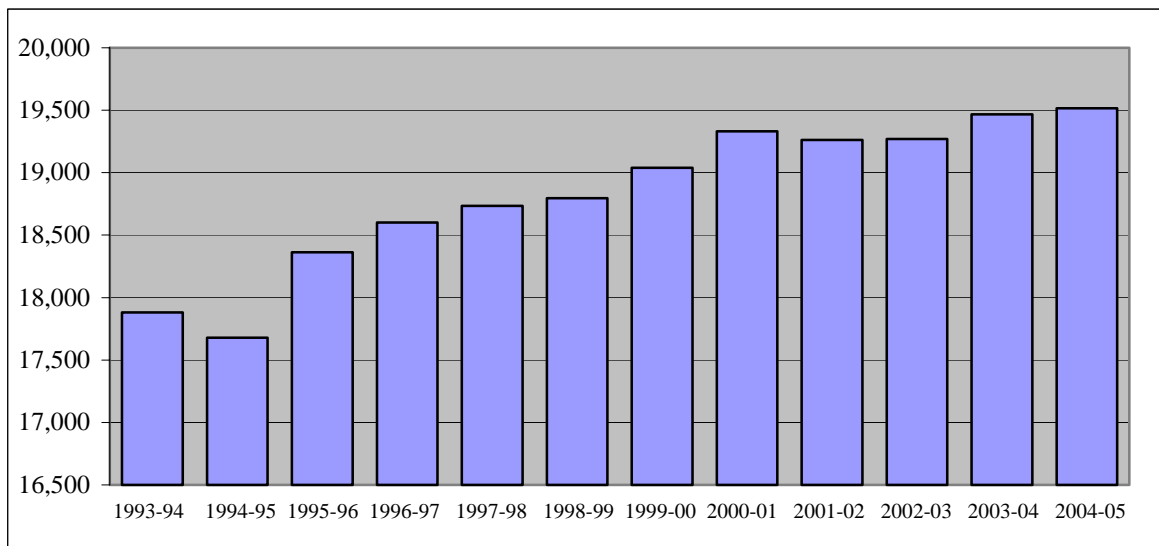
Chapter I - Introduction and Background

Figure 1
Total School Enrollment Grades Pre-K through 12



Source: Compiled by the Legislative Audit Division from data provided by OPI.

Figure 2
Special Education Students Age 3-21

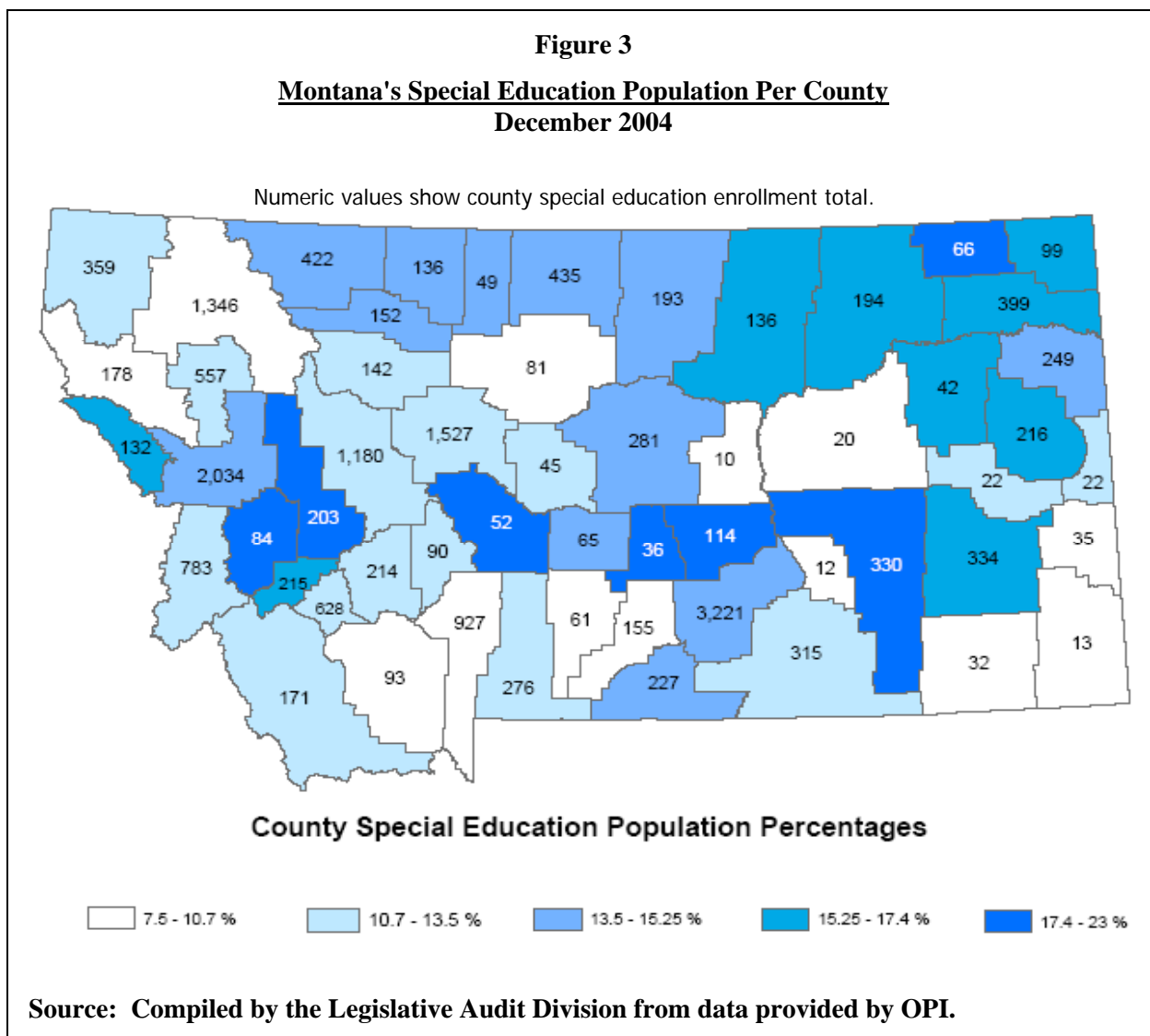


Source: Compiled by the Legislative Audit Division from data provided by OPI.

Chapter I - Introduction and Background

Populations Vary Across the State

Montana's average percent of special education population ranks below the national average. Individual district populations range from as low as 3 percent to as high as 66 percent of total enrollment. Another way to represent varying populations across the state is by county. The following map highlights the percent of special education population versus general education population in each county as of December 2004.



Chapter I - Introduction and Background

Who Administers Special Education in Montana?

In Montana, special education instruction and related services are administered by public school districts, private schools, special education cooperatives, state operated facilities, residential treatment facilities, and correctional facilities. The majority of students are served through school districts and special education cooperatives. A school district is an administrative unit of schools governed by a school board comprised of elected local community members. A special education cooperative is a board comprised of representatives from member districts that governs an organization of school districts combined for the purpose of pooling special education resources.

Montana Special Education Funding

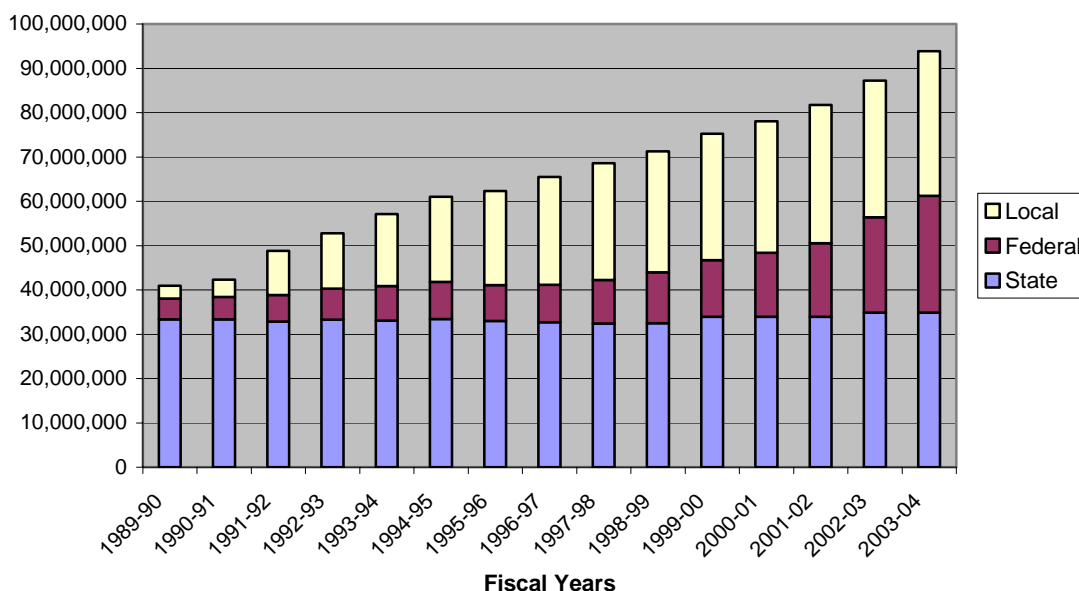
Montana special education program funds are comprised of:

- ▶ State funds.
- ▶ Local funds.
- ▶ Federal grants.

State funding is allocated to school districts through statutory formulas. Local funding refers to district general funds that are required by statute to match a portion of state special education funds received. Federal funding provided under the IDEA Part B grant program is awarded to the state based on formulas. The amount of actual funds expended from each of these areas in the past fifteen years is depicted in the following figure.

Chapter I - Introduction and Background

Figure 4
Special Education Expenditures
Fiscal Years 1989-90 thru 2003-04



Source: Compiled by the Legislative Audit Division from data provided by OPI.

This figure highlights:

- ▶ State special education funding appropriated by the Legislature has remained relatively flat.
- ▶ Local and federal funds have increased.
- ▶ Special education expenditures have doubled in the past 15 years.

Currently, Montana's annual special education expenditures from federal, state, and local sources are approaching \$94 million (not including Medicaid reimbursement funds to school districts). The federal share of special education costs has grown from 11 percent in the 1989-90 school year to 28 percent in 2003-04. The local share has grown from 7 percent to 35 percent. The state share has dropped from 82 percent to 37 percent of total special education expenditures.

Chapter I - Introduction and Background

State Special Education Funding Components

Montana's special education funding structure distributes state appropriations, in accordance with a statutory formula in section 20-9-321, MCA, based on a combination of total school enrollment and expenditures. The distribution is as follows:

- ▶ Seventy percent of the special education appropriation is distributed to school districts through two block grants (instructional block grant and related services block grant), which are based on total school enrollment.
- ▶ Twenty-five percent is distributed to school districts through partial reimbursement for local costs. To receive partial reimbursement, district expenditures must exceed match requirements and also exceed a designated threshold amount. The threshold amount varies each year and is set by OPI based on district expenditures.
- ▶ The remaining five percent is distributed to special education cooperatives to cover costs related to travel and administration, which is based on set allowed amounts.

In fiscal year 2004, the total amount of state special education funds, also known as the allowable cost payment, was approximately \$34.9 million.

Report Organization

The following chapters discuss oversight of special education funds. Chapter II outlines recommended improvements in controls for OPI oversight of special education. Chapter III discusses how use of federal special education funds could be better defined by the legislature.

Chapter II – Improve Analysis & Reporting of Funding Information

Introduction

The Office of Public Instruction (OPI) is a “pass-through entity” that distributes funds to local school districts to carry out the various statutory mandates for special education programs. Section 20-3-106, MCA, assigns general duties for school district budgeting procedures to OPI. Our audit examined how OPI controls address these responsibilities. This chapter discusses our findings related to existing controls and whether those controls assure effective oversight.

General Financial Oversight Controls Are In Place

The first step of our audit was to identify what OPI controls were in place. Audit testing was conducted at OPI and at a sample of school districts. Testing included:

- ▶ Reviewing OPI financial controls over school district special education budgets, expenditures and reports.
- ▶ Distributing a survey to Montana special education instructors, service providers and administrators.
- ▶ Analyzing ten years of statewide special education budget data.
- ▶ Gathering information from the U.S. Department of Education on special education federal grants and Individuals with Disabilities Education Act (IDEA) services.
- ▶ Examining special education details at the school district level including processes, purchase orders and student records.
- ▶ Interviewing staff responsible for oversight of school district auditing.
- ▶ Reviewing past school district financial reports.
- ▶ Compiling additional OPI special education management information on population characteristics, compliance and budget trends.
- ▶ Comparing special education data from other states.

Based on this testing, we found a system of controls in place including:

- ▶ Budget and expenditure reports are prepared, submitted and reviewed.

Chapter II – Improve Analysis & Reporting of Funding Information

- ▶ School audits are conducted and filed at OPI.
- ▶ Financial reporting timelines are established, clearly communicated and met.

Conclusion:

Overall, we found OPI has controls in place to ensure school district compliance with financial requirements.

Current Controls Focus on Compliance Rather Than Funding Oversight

Using financial analysis to identify anomalies, special needs, or problems is an effective oversight tool. Such analysis can lead to identification of the need for program improvements or changes. For example, during our audit testing we found school districts with similar total school enrollment can vary not only by special education population but also in expenditure levels. The table below illustrates three similarly sized school districts with similar amounts of state special education block grant money and how their state and local special education funding trends varied for fiscal year 2004.

Table 1
Comparison of Population vs. Local and State Expenditures For FY 2004
(Three similarly sized districts)

| | Total School Enrollment | Special Education Population | State and Local Expenditures |
|-----------------|--------------------------------|-------------------------------------|-------------------------------------|
| School A | 384 | 28 | \$93,400 |
| School B | 354 | 40 | \$82,000 |
| School C | 356 | 67 | \$188,000 |

Source: Compiled by the Legislative Audit Division from OPI documents.

Although there is similar total school enrollment, the corresponding variances in special education population are not directly reflected in the level of expenditures. Currently, there is little OPI review of this type of data to explain the variances and identify funding needs.

OPI currently collects the data needed for these comparisons on a school district level. We believe further analyzing this information

Chapter II – Improve Analysis & Reporting of Funding Information

for the special education program as a whole will provide a clearer picture of district needs. Expanded analysis could examine district total special education expenditures in comparison with related population trends and unusual spending patterns. For instance, in another example we identified school districts with large changes in school district special education populations. The following bullets highlight one school district's fluctuations in special education population in a three-year period:

- ▶ 16 percent (1 of 6) in 2002
- ▶ 22 percent (2 of 9) in 2003
- ▶ 66 percent (6 of 9) in 2004

These variations differ from the statewide average for Montana's special education population of approximately 13 percent. These variations could indicate changing needs in small school districts, since special education is based on individualized education programs per student. Analyzing these types of trends could be beneficial for OPI to assess future funding needs for all school districts. Such information could also be used to provide more information to the legislature on changing special education needs.

Use of Medicaid Funds Can Also Be Further Analyzed

In 1988, the Medicare Catastrophic Coverage Act was enacted by Congress to reimburse school districts for IDEA-related, medically necessary services, including speech-language pathology and audiology services. Per the Act, Medicaid is required to reimburse for IDEA-related, medically necessary services for eligible children. States vary in their approaches to the use of Medicaid reimbursements as a source of revenue. Accessing Medicaid for school-based services is becoming a significant source of funding in some states, particularly because the costs of providing special education can greatly exceed the federal assistance provided under IDEA.

Three years ago OPI began to notice school districts in other states were receiving considerably larger Medicaid reimbursements than Montana districts. At the time, Montana was receiving

Chapter II – Improve Analysis & Reporting of Funding Information

approximately \$1 million in Medicaid reimbursement dollars for services related to special education. OPI and Department of Public Health and Human Services contracted with a private entity to fully explore the potential use of these funds in Montana school districts. As a result, the amount of special education related Medicaid reimbursement dollars increased to approximately \$5.2 million in fiscal year 2004. The use and impacts of this increase have not been analyzed or evaluated by OPI.

We found some states require state education agencies such as OPI to not only collect information about Medicaid reimbursement dollars going to school districts, but to also report these figures to the legislature. In Montana, current OPI special education reports to the legislature do not mention Medicaid reimbursements to school districts for special education services provided or details on amounts received and how they are used. Section 17-7-11, MCA, states the Legislature needs accurate information to prepare state agency program budgets.

Report Key Program Information to the Legislature

The special education report from OPI to the 2005 Legislature and previous reports to the legislature do not include additional information funding elements that would be relevant for legislative decision-making. Two pieces of program information not included are:

- ▶ Analysis of variations among school district special education programs across the state.
- ▶ Medicaid reimbursement of local contributions to special education.

This program information can be useful in making funding/statutory decisions. Other states use this information during their legislative processes. We believe this type of program information is also important for Montana policy makers.

Chapter II – Improve Analysis & Reporting of Funding Information

Recommendation #1

We recommend OPI:

- A. Expand its analysis of program information to include identification of population trends, expenditure anomalies, district comparisons, and use of Medicaid funds.**
- B. Include this information in its report to the Legislature.**

Strengthen Training on Budget Practices

OPI provides periodic training and technical assistance on school finances and budgeting practices. Survey results, data analysis, and school district personnel interviews indicated a need for improved training in the financial administration and management of special education revenues and expenditures. Districts indicated a need and preference for on-going training on how to manage special education finances throughout the school year, especially in the areas identified as the most complex such as:

- ▶ State reimbursement payments.
- ▶ Medicaid reimbursement payments.
- ▶ Maintenance of effort requirements.
- ▶ Use of IDEA Part B grant dollars.

We found the current lack of training has resulted in districts using local funds for special education services, while federal funds were held in reserve. These budget practices are discussed further in Chapter III. If more training were provided to districts on Medicaid claims processing, school districts may recover additional funds for their educational programs.

Chapter II – Improve Analysis & Reporting of Funding Information

Training is not Reaching Key Personnel

District personnel responsible for budget and expenditure oversight vary per district. The responsible person may be the superintendent, the business clerk/manager, the special education director or a combination of those parties. Training from OPI to school district personnel also varies and is not always directed at the individuals responsible for special education budgets. OPI training is currently geared towards new employees unfamiliar with the finance process, and limited training is offered for more experienced staff. OPI School Finance Division offers training geared towards new financial administration staff on how to fill out budget and expenditure reports, timelines, and data submission to OPI and not on special education program requirements. The Special Education Division gives guidance (not formal training) on budgets to special education directors during annual meetings/conferences; however, these people do not normally attend the budget training given by the School Finance Division. Improved training and direction from OPI could improve current school district budget practices.

Recommendation #2

We recommend OPI:

- A. Develop specific training for budgeting and use of state special education funds, Medicaid reimbursements and federal grant dollars.**
- B. Provide additional training to public school district personnel involved in special education program and budget management.**

Chapter III – Additional Legislative Direction Needed On Use of Special Education Funds

Introduction

In Chapter II, we discussed strengthening Office of Public Instruction (OPI) controls to assure more analysis on the use of special education funds. During the audit, we identified additional legislative directives and guidelines are also needed. We found:

- ▶ Federal special education funds are not always used prior to expending state and local funds.
- ▶ IDEA Part B and Medicaid reimbursement funds are used as reserve funds.
- ▶ Local funding support has shouldered the majority of cost increases.
- ▶ State statutes do not address use of funds and need for reserves to maintain budget flexibility.

This chapter discusses possible legislative considerations and actions needed.

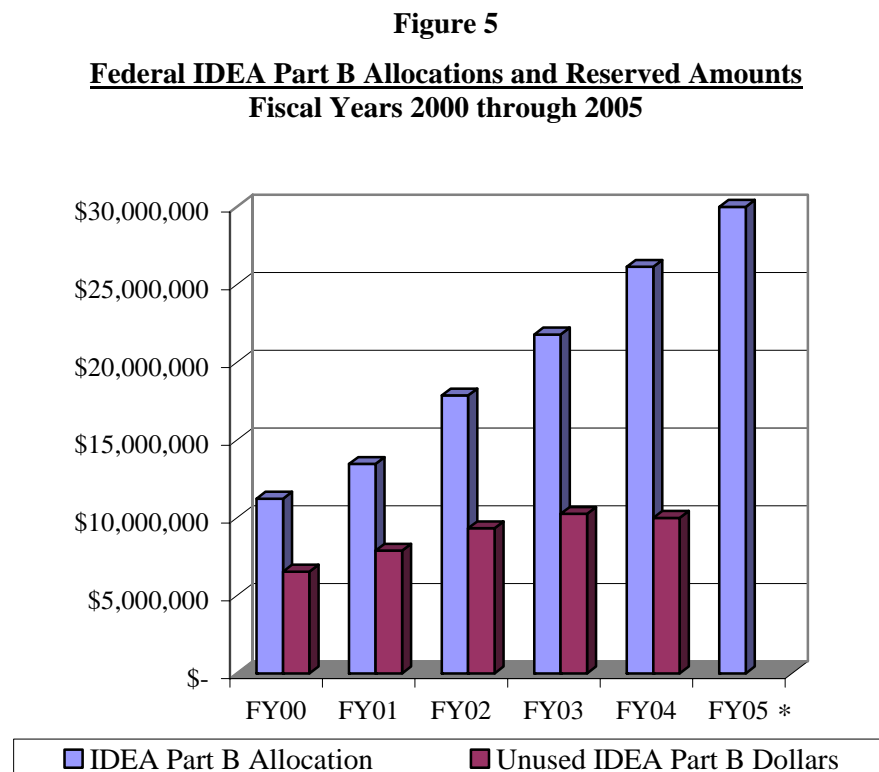
Federal Funding Requirements

As outlined in Chapter I, states are awarded a federal IDEA Part B grant to annually cover excess costs of special education. OPI is responsible for distributing the appropriate grant amounts. The annual IDEA Part B grants awarded to Montana tripled from approximately \$11 million to \$33 million in the past five fiscal years. Federal statutes require these federal special education funds be used to supplement, not supplant, state and local funds, which means state and local funds for special education cannot be completely eliminated. School districts must maintain fiscal effort to ensure supplanting does not occur. The maintenance of effort (MOE) requires districts to spend the same amount of local and/or state funds on special education costs in the current fiscal year as the previous fiscal year, except for allowed exemptions or reductions.

Chapter III – Additional Legislative Direction Needed On Use of Special Education Funds

IDEA Part B Grant is used as Program Funding Reserve

School districts are allowed 27 months to spend each annual IDEA B grant award. Any funds not spent within the first 12 months are considered to be carryover funds. During our audit testing, we found school districts and special education cooperatives do not annually spend all federal special education funding available, while using other educational program money for special education expenditures. Five fiscal years of data show at least \$5 million or more of IDEA Part B grants are reserved each fiscal year as carryover funds. The following graph depicts the amount of IDEA Part B grants distributed to school districts and cooperatives since fiscal year 2000 and the amount of reserved funds each year.



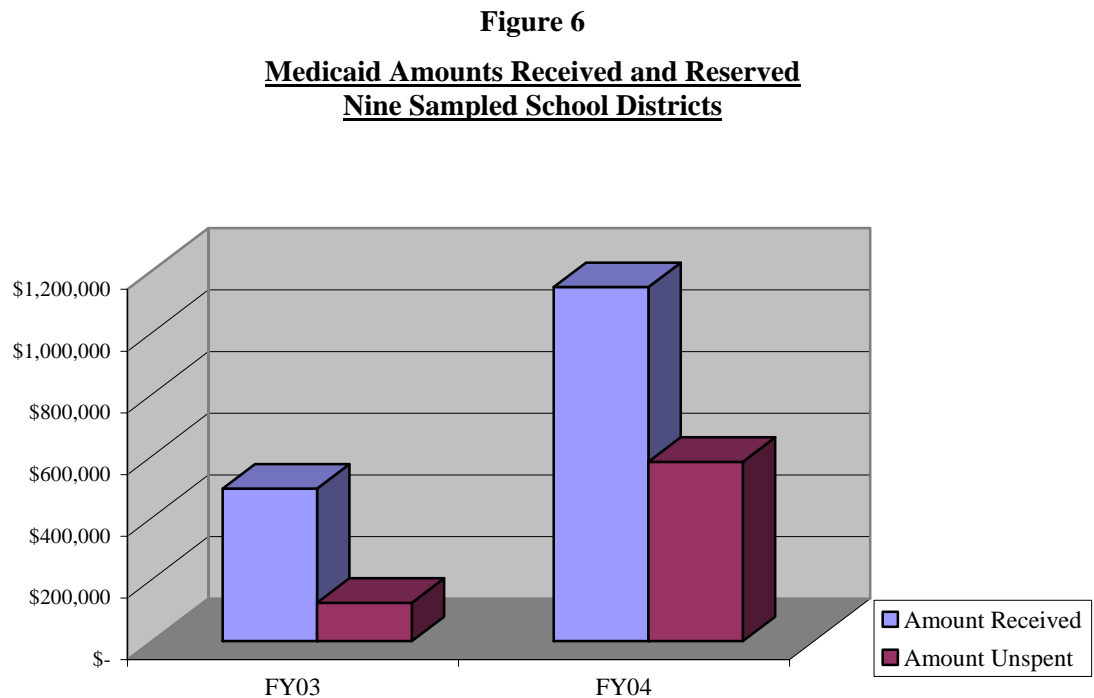
*Data on unused funds unavailable until December 2005.

Source: Compiled by the Legislative Audit Division from OPI data.

Chapter III – Additional Legislative Direction Needed On Use of Special Education Funds

Special Education Medicaid Reimbursements Also Reserved

According to school district personnel, designated amounts of Medicaid reimbursement dollars are also reserved as “rainy day” funds. We reviewed nine trustee financial summary reports for two fiscal years for the school districts receiving the largest reimbursement payments in fiscal year 2004. These nine school districts serve approximately 31 percent of Montana's total special education population. In fiscal year 2003, four of those school districts received no Medicaid reimbursement dollars and the other five districts received a total of \$495,000, and had \$125,000 reserved at the end of the year. In fiscal year 2004, two districts received no Medicaid money and the other seven received a total of \$1.148 million and held \$582,000 in reserve. The following chart illustrates the amount of Medicaid dollars received and reserved by the nine school districts reviewed:



Source: Compiled by the Legislative Audit Division from OPI documents.

Chapter III – Additional Legislative Direction Needed On Use of Special Education Funds

What is the Impact of Establishing Reserves from Federal Funds?

Reserving federal dollars has no negative budgetary impacts to a school district, while not spending state and local dollars can reduce future budgets. Federal statutes allow carryover of funds while state statutes do not. Although the majority of carryover funds are spent by districts in the 27-month funding cycle as allowed by federal law, these budgeting practices have created impacts to both local and state funds.

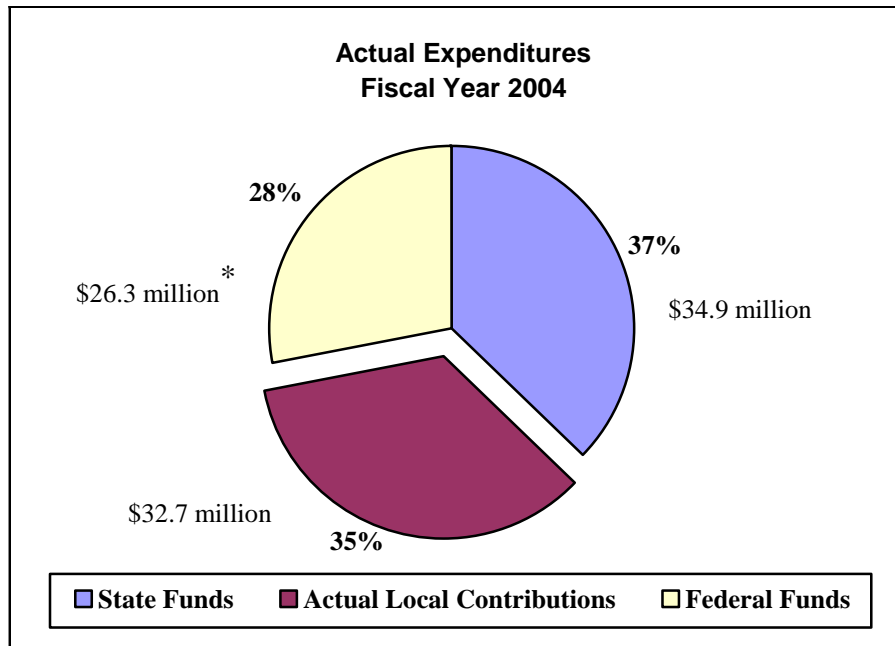
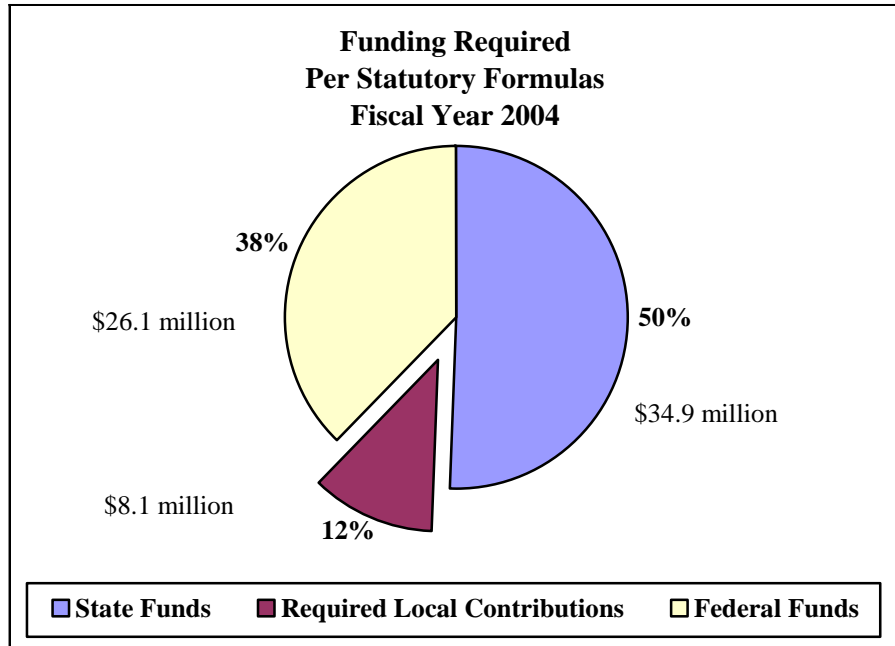
Impacts to Local Funds

Per OPI reports, the greatest share of increased funding for special education is from local funds. In fiscal year 2004, \$24.4 million of the state allowable cost payment for special education was distributed with a required local match of \$8.1 million. By law, a school district is required to match one local dollar for every three dollars received from the state block grants. This is called the local match. However, local funding is surpassing the match requirement. Although a local match of \$8.1 million was required, actual local funds expended in 2004 were \$32.7 million. Generally, not spending federal dollars available for special education results in local funding for special education being maintained at a higher level. The following two graphs illustrate the level of funding required in statute versus the actual local funding support provided to cover expenditures for FY 2004.

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Figure 7

**Comparison of Special Education Funding Support
Required vs. Actual**



* \$.2 million of carryover spent

Source: Compiled by the Legislative Audit Division from OPI documents.

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The statewide picture for fiscal year 2004 shows the actual amount of local dollars expended on special education was \$32.6 million, while \$10.2 million of federal funds designated for special education were not used. This computes to \$24.5 million more local dollars spent on special education costs than required for the match while federal IDEA Part B funds were available for school districts to use.

Impacts to State Funds

Unlike federal funding requirements, districts must revert state dollars not spent on special education from subsequent budgets. Any unmatched portion of the grant reverts to the state and must be subtracted from the district's subsequent year budget, a process called reversion. If available federal funding designated for special education is unused, it can be carried over to the next year. We found the requirement for reversion of state funds contributes to the current school district budget practice of reserving available federal funds. We also found 67 percent (293/438) of school districts are receiving the state reimbursement payment each year. We found the districts receiving state reimbursement payments larger than \$100,000 in fiscal year 2004 also had the most reserved federal grant dollars for special education in those years. The following table highlights some examples of these districts.

Table 2
School Districts Receiving State Reimbursement Payments

| Example of Montana School Districts | State Reimbursement Payment FY 2004 | Unexpended Federal IDEA Part B Funds FY 2003 |
|--|--|---|
| School District A | \$295,000 | \$985,000 |
| School District B | \$266,000 | \$803,000 |
| School District C | \$195,000 | \$656,000 |

Source: Data compiled by Legislative Audit Division from OPI documents.

Based on this information, it appears changing budget practices to focus on use of federal funds could reduce state reimbursement

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payments for some districts and increase the payment for other districts. The districts highlighted in Table 2 could have used federal funds in place of the amount reimbursed from the state. The \$582,000 reserved in fiscal year 2004 by the schools in our Medicaid sample could have also reduced local funding contributions to special education by a similar amount. This would result in a more equitable distribution of state funds.

Current Budget Practices Resulting in a Wide Range of Budget Reserves

Current practices do not assure all districts maintain equitable or needed reserve amounts. Some districts are maintaining higher level of reserves while others maintain minimum amounts. The following table highlights the ranges in reserved federal IDEA Part B funds that we identified.

Table 3
Variations in Reserved Carryover Levels for Fiscal Year 2004
Within a Sample of School Districts

| Number of Special Education Students | Reserved Carryover Amounts |
|---|-------------------------------|
| 650 to 1,550 | \$240,000 to \$985,000 |
| 400 to 650 | \$91,000 to \$803,000 |
| 250 to 400 | \$45,000 to \$656,000 |
| 100 to 250 | \$0 to \$247,000 |

Source: Compiled by Legislative Audit Division from OPI documents.

Overall, a portion of the reserved \$10.2 million of federal IDEA Part B funds could have been used to reduce the \$32.6 million in local dollar contributions to special education and reduce payments for reimbursement of these local costs to certain districts while providing increased payments for other districts. This change in use of funds should have no impact on maintenance of effort requirements and still assure federal funds are used to supplement not supplant state and local funds.

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Other State Programs Have Legislative Guidance

There are no state statutory incentives which address the use of federal special education funds for reserves or for using these funds prior to using state and local funds. Current Montana school finance law does establish the need for other types of fund reserves and limitations for those reserves. For example, section 20-9-104, MCA, establishes a need and purpose for an operating reserve. Statutory language speaks to the amount that may be reserved, time frames for use of the reserved funds, and the purposes of the reserves. A retirement fund reserve account is also allowed under section 20-9-501, MCA. These requirements also establish threshold limits, need for reserves, and consideration of any fund balance available for re-appropriation.

We also found Montana state statutes address the use of federal funds. Other state agencies/programs have clear legislative guidance on their budget flexibility and priorities for using various fund sources. Section 17-2-108, MCA states:

“... an office or entity of the executive, legislative, or judicial branch of state government shall apply expenditures against appropriated nongeneral fund money whenever possible before using general fund appropriations.”

This statute establishes legislative directives on the prioritization of expenditure of available funds. Although this law does not include school districts, the same concept could be applied to special education funding allocations to address the local funding impacts of reserved federal funds. Without specific legislative guidance for use of federal special education funds and budget practices, OPI cannot address the current use of funding sources.

Additional Legislative Direction Needed on Special Education Reserves and Use of Federal Funds

According to school district and OPI personnel, federal funds are reserved for contingency purposes. Special education laws mandate districts provide services to eligible children whether or not funds are available. Depending on a student’s disability needs, district costs can range considerably. Unexpected special education expenses are

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a common experience. Interviews with both school district and OPI officials indicated a need for "rainy day" funds for unexpected expenses or to smooth over funding fluctuations. The funding statutes for special education also do not address the need for or purpose of reserves for this program. As noted earlier, the legislature has established reserves for other fund types. Statutes established the specific purpose and amounts needed for those reserves. Similar steps could be taken for reserves of special education funds. We believe the legislature should specifically clarify the use and need for these reserves for special education funds.

Without legislative direction on the use of federal funds, special education budget practices have utilized other methods to develop and maintain reserve funds. If legislative criteria were available, special education costs could be applied to designated federal funds before local and state dollars are used whenever possible. This practice should impact the level of local and state funds available for general education and, in turn, reduce or more equitably distribute the amount of state reimbursement payments made in the next funding cycle. We believe the legislature should establish criteria for applying expenditures against federal funds whenever possible to affect these budget changes.

Recommendation #3

We recommend the OPI seek legislation to establish statutory guidance on:

- A. The need for state and local fund reserves for special education, and if determined necessary, address the level of reserves needed and the purpose of those reserves.**
- B. Criteria similar to section 17-2-108, MCA for applying special education expenditures against federal funds prior to using state and local funds whenever possible.**

Agency Response



— Montana Office of Public Instruction —

Linda McCulloch
State Superintendent

November 17, 2005

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LEGISLATIVE AUDIT DIV.

Scott A. Seacat
Legislative Auditor
Legislative Audit Division
PO Box 201705
Helena, MT 59620-1705

Regarding: Official Response from the Office of Public Instruction Concerning the Use of Special Education Funds Audit Dated December 2005

Dear Mr. Seacat:

The Office of Public Instruction (OPI) has reviewed the Use of Special Education Funds performance audit completed by the Legislative Audit Division. We appreciate the level of effort and professionalism of the staff of the Audit Division in preparing this report. The staff of the Audit Division reviewed records, interviewed OPI staff, and provided opportunities for management to discuss issues and concerns.

We were pleased to note that the report's conclusion stated: "Overall, we found OPI has controls in place to ensure school district compliance with financial requirements." Recommendations in the report focused on expansion of training opportunities and dissemination of information on the complexities of the special education budgeting process and a recommendation for our office to seek legislation to establish guidance on expenditures of federal funds and the need to establish fund reserves for special education.

We concur with the recommendations. The recommendations for expanded training opportunities will be implemented during the 2006-2007 school year and expanded information on special education expenditures will be included in the Special Education Report prepared for the next general session.

Recommendations:

(1)

We recommend OPI:

- A. Expand its analysis of program information to include identification of population trends, expenditure anomalies, district comparisons, and use of Medicaid funds.*
- B. Include this information in its report to the Legislature.*

Response: **Concur**

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The OPI will provide an expanded "Special Education Report to the Montana Legislature" for the next general session. This report will include a discussion of population trends, expenditure anomalies, and use of Medicaid funds.

(2)

We recommend OPI:

- A. Develop specific training for budgeting and use of state special education funds, Medicaid reimbursements and federal grant dollars.*
- B. Provide additional training to public school district personnel involved in special education programs and budget management.*

Response: Concur

The OPI will provide additional training to public school personnel specific to budgeting and the use of state special education funds, Medicaid reimbursements and federal grant dollars. These trainings will be made available to school district business officials, directors of special education, and school administrators.

(3)

We recommend the OPI seek legislation to establish statutory guidance on:

- A. The need for state and local fund reserves for special education and, if determined necessary, address the level of reserves needed and the purpose of those reserves.*
- B. Criteria similar to section 17-2-108, MCA, for applying special education expenditures against federal funds prior to using state and local funds whenever possible.*

Response: Concur

Prior to the next general session, OPI will consult with legislative leaders to determine whether legislation should be sought to encourage the expenditure of federal funds prior to using state and local funds and to establish minimum reserve accounts for the purpose of smoothing the year-to-year variability in special education costs as well as cover unanticipated expenses.

Please contact me if you have questions concerning this response.

Sincerely,



Linda McCulloch
State Superintendent

c: Bob Runkel